Long Parliament REVIVED:

OR,

An Act for Continuation, and the not Dissolving the Long Parliament (call'd by King *Charles* the First, in the year 1640.) but by an Act of Parliament.

With Undeniable Reasons deduced from the said Act to prove that that Parliament is not yet Dissolved.

ALSO,

Mr. *William Pryn* his five Arguments fully answered: Whereby he endeavours to prove it to be Dissolved by the Kings Death, &c.

By *Tho. Philips* Legendy Gentleman, a sincere Lover of his King and Country.

LONDON,

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REVIVED.

Anno 17. Caroli Regis.

An Act to prevent Inconveniences which may happen by the untimely adjourning, proroguing, or diſſolving of this preſent Parliament.

WHereas great Sums of Money muſt of neceſſity be ſpeedily advanced and provided for Relief of his MAJESTIES Army and People in the Nothern parts of this Realm, and for preventing the imminent danger this Kingdome is in, and for ſupply of other his Majeſties preſent and urgent occaſions, which cannot be ſo timely effected, as is requiſite without Credit for raiſing the ſaid Moneys: Which Credit cannot be obtained until ſuch obſtacles be firſt removed, as are occaſioned by fears, jealouſies, and apprehenſions of divers His Majeſties Loyal Subjects, That this preſent Parliament may be adjourned, prorogued, or diſſolved before Juſtice ſhall be duely executed upon Delinquents; publick Grievances redreſſed; a firm Peace between the two Nations of England and Scotland concluded; and before ſufficient proviſion be made for the repayment of the ſaid Moneys ſo to be raiſed. All which the Commons in this preſent Parliament Aſſembled having duely conſidered, do therefore humbly beſeech your moſt excellent Majeſty, that it may be declared, and enacted.

And be it Declared and Enacted by the King our Sovereign Lord, with the aſſent of the Lords and Commons in this preſent Parliament Aſſembled, and by the Authority of the ſame, that this preſent Parliament now aſſembled ſhall not be Diſſolved, unleſs it be by Act of Parliament to be

paſſed for that purpoſe. Nor ſhall be at any time or times, during the continuance thereof, prorogued, or adjourned, unleſs it be by Act of Parliament to be likewiſe paſſed for that purpoſe. And that the Houſe of Peers ſhall not at any time, or times, during this preſent Parliament, be adjourned, unleſs it be by themſelves, or by their own Order: And in like manner, That the Houſe of Commons ſhall not at any time, or times, during this preſent Parliament, be adjourned, unleſs it be by themſelves, or by their own Order. And that all, and every thing, and things, whatſoever done, or to be done, for the adjournment, proroguing, or diſſolving of this preſent Parliament, contrary to this Act, ſhall be uterly void, and of none effect.

The

The Long Parliament Revived.

TO the end the Peace of this Nation may be eſtabliſhed upon a firm and laſting Foundation, and that after one ſhipwrack, hardly eſcaped, we run not blindfold again upon a more fatal and irrecoverable Rock of Confuſion: The Author of this ſmall Paper (out of tender compaſſion to his Native Country, and with all humble reſpects of due Allegeance and Honour to his Royal Majeſty that now is) hath thought fit (with the premiſed Act of Parliament) to offer ſome few Arguments to the World, naturally flowing from the Authority and Reaſon of it: Which, if timouſly hearkned to, may yet prove a healing Remedy againſt the ſad breaches of this ſhattered Kingdome; and prevent thoſe other Miſchiefs, which the obſtinacy of injudicious and ſelf-willed perſons will inevitably bring upon themſelves and us. And if convincing Reaſon may bear the ſway in this perverſe Age, wherein every man would make his petty private deſigns to be his Law, rather than common Equity, or the eſtabliſh'd Law of the Nation, he doubts not of the deſired ſucceſs he aims at, with Gods bleſſing, in this enſuing Diſcourſe.

That the Safety and Happineſs of this Kingdom lies in Parliaments rightly conſtituted, and in the preſervation of their juſt and lawful Priviledges, I ſuppoſe there are none, of what different judgments ſoever in other things, who are Subjects of this Nation, and of ſober principles, but will readily grant it. And if ſo, the contrary thereunto will then without doubt as eaſily be concluded.

Which Maxime being yeelded in reference to other Parliaments; it muſt by proportion hold as true in relation to the Long Parliament, call'd by the late King *Charles* the firſt, of bleſſed memory,

memory in the year, 1640. Whose being and Legal Authority is still so visibly existent by vertue of the forementioned Act; that when the Subjects of this Nation have seriously considered of it, they will doubtless see they have no reason to hold themselves safe in their Lives, Liberties, and Estates, till it have made provision in that behalf, and it be legally dissolved according to the Tenour of the said Act, by Act of Parliament for that purpose.

And therefore, being that so great a dis-security to the Subjects, and the Peace of the Kingdom is incumbent hereupon (as who doth not evidently perceive it, in case that Parliament is yet in its legal force and being) how much doth it concern every Subject of this Nation to be groundedly satisfied in this particular, by a solid answering of those Objections that seem to militate against the verity of this Assertion: That mens minds may be setled, together with the Peace of the Nation upon a sure Foundation of Law and Righteousness; And we may not, like the waves of the Sea, be still fluctuating to and fro in doubts and uncertainties, by the divers winds of mens contrary Judgments and Opinions, to the continual hazard of our dearest Concernments.

To evidence the still legal being of that foresaid Parliament, the Act speaks sufficiently for it self in plain and expres tearms: Yet to make it more clear, these following Arguments, from the Act it self, and the Title of it, doth more apparently evince it.

1. To begin with the Title; which is, *An Act to prevent Inconveniencies that may happen by the untimely Adjourning, Proroguing, or Dissolving of this present Parliament:* Which Inconveniencies are specified in the following Preamble of the said Act, whereof chiefly one is this: *Lest Credit should not be obtained for raising of Monies for relief of his Majesties Army, and People in the North, and for supply of other his Majesties present and urgent occasions through the continued fears of the Subjects, lest the Parliament may be adjourned, prorogued, or dissolved, before sufficient provision be made for repayment of the said Monies to be raised.*

In which words there are two things principally to be considered in reference to the intent & meaning of this Act, why it was made.

First; For the obtaining of Credit, in order to the raising of considerable Sums of Money for supply of the Kings, and Kingdoms

doms great neceſſities: which could never have been done, (as by the Act it ſelf is ſuppoſed) had not this Act been made: It being the onely ground and foundation of encouragement for the Credit which was to be given in order to the raiſing of the ſaid Monies; and did accordingly effect it.

Secondly, The Parliament could not without this be in any ſecure condition to make proviſion for the repayment of the ſaid Money ſo to be raiſed, in regard that through defect of ſuch an Act, the Parliament might be in continual danger to be untimely diſſolved, (and by the clear ſcope of the Act, 'tis accounted an untimely diſſolution, if diſſolved before the ſaid proviſion be made) therefore the diſſolution of the ſaid Parliament before ſuch proviſion made for repayment of the ſaid Monies, which is not yet done, is expreſly contrary to the true meaning and intention of this Act.

And if this Act were made purpoſely to prevent the untimely diſſolution of the Parliament, (as it ſtands expreſſe in the Title) then it cannot but have reſpect to the Kings Death, as well as to any other means of untimely diſſolution: The Parliament well knowing the Kings life was as uncertain, yea, in ſome reſpects more uncertain than the life of other men: And therefore could not chooſe but ſo underſtand it, if they intend this Act to be any ſecurity for the Monies borrowed, or to be borrowed upon their Credit.

Secondly, In the ſubſtance and body of the Act, 'tis delivered in expreſs terms, *That this preſent Parliament ſhall not be diſſolved, but by an Act of Parliament.* Whence it follows, that if not diſſolvable, unleſs by an Act of Parliament, then it is excluſive to all other wayes and means of diſſolution (as the interruption by armed violence, the forcible omiſſion of dayes of adjournment, the violent, or natural death of the King) or whatſoever elſe might be done or have happened legally to diſſolve it, had not this Act been made or conſtituted.

Thirdly, and laſtly, To make all clear, without any execution, in the cloſe of the ſaid Act it is expreſſed, *That all, and every thing, & things, whatſoever done, or to be done, for the adjourning, proroguing, or diſſolving of this preſent Parliament, contrary to this Act, ſhall be utterly void, and of none effect.* Which clauſe you

ſee looks backward, and forwards in reference to whatſoever had a legal power and tendency before this Act to diſſolve the Parliament. Againſt which this Act hath now fully provided, that neither what hath been done for the time paſt, nor whatſoever ſhall be done for time to come, ſhall diſſolve this Parliament, excepting an Act of the ſaid Parliament. Whence I argue, That all thoſe things that otherwiſe legally would or might have diſſolved this Parliament, had not this Act been made, have no force or efficacy to diſſolve this, but onely an Act of this preſent Parliament. All other Parliaments having no legal capacity till this be legally diſſolved: unleſſe it be granted that two Parliaments may have both of them legal capacity at one and the ſame time. Which I believe there are none ſo abſurd as to aver; no more, then that two Kings may have a legal capacity at one time in the ſame Kingdom.

But becauſe there are divers Objections, that ſeem to oppoſe the premiſes, and the legal being and capacity of the ſaid Parliament, I ſhall endeavour to anſwer them as ſtrongly, and yet as briefly as I may, to every ordinary Readers underſtanding.

The firſt and grand Objection of all, is the death of the late King, that ſummoned this Parliament in the year 1640. and is argued by Mr. *Wil. Prin.* Becauſe, ſaith he, *it had been frequently reſolved by Parliaments themſelves, the reverend Judges, and our Law Books, by King* Charles *his own Declaration, and his Judges, and Council, that the depoſition and death of the King doth actually diſſolve the Parliament.* &c.

See his true & perfect Narrative of what was done and ſpoken by and between Mr. *Prin* and the old, and newly forcibly ſecluded Members, beginning fol. 24. and forwards. Printed in the year 1659.

To which I anſwer by way of Conceſſion, that the death of the King doth legally, or according to Cuſtom, diſſolve a Parliament that is onely called and conſtituted by the Kings Writ; but not a Parliament conſtituted and confirmed by an Act of the three Eſtates. Let Mr *Prin*, or any other Lawyer ſhew me any Law or Preſident to that purpoſe, and I will preſently yield the Cauſe.

If Mr. *Prin* would have ſpoken home to this Caſe, he ſhould have made it appear where, or when, it had been reſolved by Parliament, the Judges, and our Law Books, *&c.* that in caſe of an Act of Parliament made for the Seſſion, and continuance of a Par-

a Parliament, till they ſhould diſſolve themſelves by an Act, that ſuch a Parliament hath been, or ſhall nevertheleſs be diſſolved by the Kings death, which it is believed he will find a very hard task to prove.

Secondly, He objects, *The Parliament is no ſtanding Court, ſitting at certain ſeaſons by poſitive Laws, but ſummoned and conſtituted by the Kings Writ of Summons, and Royal Prerogatvie, when, and where he pleaſeth, and adjourned, prorogued, and diſſolved by his Writ alone in point of Law*, &c.

I anſwer again, by way of Conceſſion; that Parliaments, according to their wonted and by-paſt Cuſtomes, were no certain Courts, ſitting at certain ſeaſons by poſitive Laws. But yet may be made ſuch by Act of the three Eſtates. Witneſſe the Triennial Parliament.

And further, By an extraordinary Grant of his late Majeſty, this Parliament was made a ſtanding Court to ſit conſtantly by a poſitive Law, till they ſhould pleaſe to diſſolve themſelves. He having been pleaſed by the ſaid Grant, for the better ſecurity of his Subjects, to wave his Royal Prerogative and power of diſſolution; and to give his conſent for the nulling of all other means tending thereunto.

And for what Mr. *Pryn* intimates further in the ſaid Objection: *That becauſe all Writs of Summons are actually abated by the Kings death, as well as all other Commiſſions, and Pattents of all Judges, Juſtices*, &c. *That therefore this Parliament muſt needs be diſſolved.*

I anſwer: That doth not at all follow, till he can make it appear, that there is no more validity in an Act of Parliament of the three Eſtates, than there is in a meer Writ of Summons, or a Commiſſion or Patent granted only by the King: For though this *Parliament* was ſummoned by the Kings Writ, yet 'tis manifeſt, its Continuance and Confirmation did not at all depend upon that (for then he might ſtill have diſſolved it when he pleaſed) but upon the Act of the three Eſtates, who had eſtabliſhed it by Law; and ſo was no more diſſolvable by the Kings Death, than any other Statute Law, or Act of *Parliament* whatſoever. And therefore is not depending on ſo fickle a thing as a Writ of Summons or a Patent, or Commiſſion

given the Judges, and which the King may take away and repeal again at his own pleasure.

And to illustrate this more by an instance, I shall desire to ask Mr. *Prin* this Question. Put case that there are certain urgent necessities (as before specified in the Act) that the Parliament hath of great Sums of Money for preserving the Peace of the Kingdom. This Money they must take up upon their Credits: But they see no wayes how to raise, or to repay it, unless their Session be continued for seven years. Therefore to get Credit for raising the said Money, and time to reimburse, or give security to the Lenders, they obtain the Kings consent to an Act for their continuance during the said term (with this Proviso inserted) though the King by any accident should happen to dye before the said security were given, or the moneys paid. Whether doth the Parliament in this case continue in force and efficacy after the Kings Death, or is it then actually dissolved?

If Mr. *Prin* grant it a Parliament in force after the Kings Death upon this consideration (as I conceive he cannot deny it) then 'tis apparent, that 'tis not the Kings Death barely that doth of it self dissolve a Parliament, *viz.* I say, a Parliament stablished by a Law: and consequently then not this Parliament, the reason being alike for the one as for the other.

But if he shall aver, (which to me is incredible) that notwithstanding such an Act, yet by the Kings death 'tis legally dissolved. Then it will necessarily follow, that Parliament security (which was ever lookt upon till now as inviolable) is most dangerous, and of all others least to be trusted, and the Subjects had need be warned to take heed of it; seeing it must wholly depend upon so uncertain a thing as the Kings Life; which as it throws no small dishonour upon that High Court, So it will be no little prejudice to publick emergencies. For if the King dye half a year after the Moneys borrowed, and before the security be given (and he hath no surer or longer a lease of his life than other men) all the said Moneys must absolutely be lost, and so the Subject defrauded: No future Parliament being bound to make good the Acts and Deeds of a Former, further than they will or please themselves: And it is to be wisht,

that

that the Kingdom may not now too ſadly have experience of it.

Thirdly, Mr. *Pryn* Objects, *the Kings name in which the Writs for Election are iſſued forth: That becauſe they go out in the name of the King raigning, and ſo calls the perſons Elected to adviſe with him perſonally; and the Parliament to be conven'd is call'd his Parliament, and is to conſult of the arduous buſineſſes of the Kingdom concerning him, &c. Therefore when the King dies who call'd the Parliament to adviſe and conſult with himſelf, the Parliament muſt neceſſarily be diſſolved, unleſs they could be ſuppoſed to conſult and adviſe with him of the weighty affairs of his Kingdom after his deceaſe.*

To this I anſwer firſt, That though the Writs of Summons run, to conſult with the King perſonally or by name, yet they ſay not, to conſult with him onely, and ſo are not ſo excluſive (having reſpect to the reaſon and equity of the Law) but that the ſame Parliament may alſo conſult with the Succeſſor, if the Peace and Safety of the Kingdom do require: Granting this Maxime to be undeniably true, that the ſafety of the people is the Supream Law.

And though the Parliament ſummoned by the Kings Writs he called his Parliament, yet his death doth no more vacate it (being eſtabliſhed by Law) than it doth other Lawes by the ſame King made, which are moſt properly called his Laws, becauſe enacted with his perſonal conſent: and yet we know that they are not ſo his, but that they are alſo the Laws of his Succeſſors, and are ſo commonly called.

Beſides, By conſtituting the Parliament to dure till they diſſolve themſelves by an Act, the King virtually waved the authority of his Writs of Summons, in which Writs the Parliament is expreſt to be called to conſult with him by name: No ſuch thing being in the leaſt ſaid or expreſt in the Act by which this Parliament is now confirmed to continue, *&c.* Therefore it matters not, neither is it at all to the purpoſe in this caſe, how, or in what name the Writs of Summons, whereby this Parliament was firſt called, were iſſued forth: Foraſmuch as this Parliament conſiſts no longer by any authority derivative from thoſe Writs, (that Foundation being wholly taken away) but

onely by Act of the three Estates, as is evident in that the King could not now dissolve it by his personal Authority any more: And if his personal Authority, he being living (which is affirmative) could not dissolve it; then his death, which is but negative, or a cessation of the influence of his personal Authority, can much less do it.

And farther, By way of interrogation I, would ask Mr. *Pryn*, Whether he will grant any more priviledge (in the case of the Kings Death) to a Parliament stablished by a Law, then he will do to a Parliament onely call'd and constituted by the Kings Writs; (between which he cannot surely but say there is a very wide difference.) And if he yields, the priviledge doth excel (as he must needs) on the side of that Parliament that is established by a Law: In what sence can he conceive it to be, as the case here put, unless by the duration of its Authority after the Kings Death who call'd it: Of which priviledge the Parliament onely constituted by the Kings Writs comes short, and fails, as before acknowledged, by the Kings Death.

And I would fain know what reason there is, that a strained exposition of a Statute Law as this is (that this Parliament should be dissolved by the Kings Death) should take place against the expres litteral sence of it, which is, (that it shall not be dissolved, but by an Act:) When as the strained sence also is evidently dangerous, unsafe, and prejudicial to the publick, but the litteral exceeding beneficial.

The calling of Parliaments, in this or that Kings name, to consult or advise with this or that King, these are but circumstantial things, and done for orders sake, and nothing of the substantials and essence of the Government and Kingdomes welfare. And therefore if Parliaments, call'd in this or that Kings name, to advise with this or that King, should continue in force (though there were no act for it) after this or that Kings Death, there were no danger or inconvenience in it (how much less when an Act, as now, implicitely passed to that purpose) but rather the contrary. They may consult with as much safety and advantage to the Kingdom with the successor, as they did with the deceased King.

But to dissolve Parliaments rashly and untimely, may throw

throw a well-settled Kingdom into very great and hazardous difficulties: And how sad a thing were it, and how contrary to the General Rule of the Peoples Safety (which in the Government of a Nation ought to be valued before any thing, and is the end of Government) if for circumstances the general welfare and Peace of the Kingdome must be hazarded.

Fourthly, As to what Mr. *Pryn* objects, concerning *a man by his Will or Deed, or the King by his Commission, or the Parliament by special Act and Order, authorizing and impowering any three persons jointly to sell Land, give Livery and Seisin, execute any Commission*, &c. *and that in case any of them dy, the two survivors jointly, or severally can do nothing: because their Authority and trust was joynt and not several*, &c. Applying this to the Parliament, *which being* (as he now expresseth it) *a Corporation compacted jointly of the King, Lords, and Commons House, and three Estates, that therefore the Death of the King necessarily dissolves it notwithstanding this Act.*

I answer, This doth no more prove it, than any of his former Arguments: For this Similitude doth not hold proportion, nor come up to our present Case.

For we have not here to do with one Estate or more, that hath absolute power in it self (and intends to execute it) to constitute other persons for any Office or trust, as a single person, *&c.* that makes a Will or Deed doth constitute three or more persons in trust for the execution of his Will or deed, whose joint power being exprest in the said Will or Deed, it necessarily failes upon the death of any one of them, because jointly and not severally intrusted.

But with a Parliament, *Who have voluntarily engaged themselves* upon a trust and Credit received from the people for their security, with the consent of the King, making a Law to preserve their Session, *and establish their own Authority* against all means of their untimely dissolution, *till they had honourably discharged their trust*, and given security and satisfaction to those that gave them Credit: Which nothing concerns any Power or Authority to be given to others, whether three or more persons (according to Mr. *Pryns* instance) to be executed joyntly, wherein a failer may be through any one of their deaths.

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But becauſe there ſeems ſomething ſtill to be unanſwered to this Objection in reference to the conjunctive power of the Parliament, conſiſting of three Eſtates. Therefore this alſo is fully reſolved in the following Anſwer to what Mr. *Pryn* intimates concerning the Kings being a part of the Parliament: Who ſaith,

That becauſe the King is a part of the Parliament: Therefore if the King dies, the Parliament muſt needs be diſſolved.

To which I anſwer, That the King is rather a part of the Parliament in his Politick, than in his Perſonal capacity, which is alwayes ſubject to death, but his Politick never. With this agrees that famous Lawyer Sir *Edward Cook*, (ſee the third part of his Inſtitutes, Chapter the firſt) where ſpeaking of the High Court of Parliament, and of what perſons it conſiſteth, ſaith in the firſt place, and in expreſs words: That it conſiſts of the Kings Majeſty ſitting there, as in his Royal Politick capacity, &c. And if ſo, then the Parliament dies not in all caſes when the King dies: (and if this holds good in any caſe, than ſurely in caſe of an Act to that purpoſe.) For though his Perſon be dead, yet his Royal Authority lives, as is ſufficiently evident by the Force and Authority of all our Laws, till Repealed by Act of Parliament.

But beſides, it may thus farther be argued clearly. The Members of the two Houſes of Parliament, though many of them die (as oft-times it comes to paſſe, and 'tis poſſible they may all die by degrees before the Parliament riſe) yet the Parliament is not diſſolved, becauſe they are not now the very ſame individual perſons that were choſen firſt by the Kings VVrits of Summons. 'Tis ſufficient that there have been new VVrits iſſued forth from that Houſe, or Eſtate of Parliament whereof they were Members, whereby new Elections, &c. have been made, and ſo other Members returned to ſupply the places of the dead ones. And if this be good in the caſe of the two Houſes of Parliament, &c. (which no man that underſtands Law, and the uſage of Parliament will deny) then it is much more good in the caſe of the Kings Majeſties Perſon; VVhoſe Royal Eſtate and Authority is ſo evident, that it is a declared, undeniable Maxime in our Laws, He never dies, So that what

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new VVrits do legally for ſupply of the places of the dead Members to continue the Eſtate and Authority of the two Houſes of Parliament: That, and much more eminently the Kings immediate Succeſſion to the Crown after his Fathers, or Predeceſſors death doth do, by vertue of his Royal Birth-right and Title of Inheritance. There being this grand difference, between Members of Parliament dying, and the King. They ſo die, that their Authority cannot be revived, but by new Elections, or VVrits of Summons. But the King ſo dies, that his Authority ſtill lives by immediate ſucceſſion. VVhence it is that the Royal Seat is never vacant, that there ſhould be a failer to make good the Royal Actions of the Predeceſſour. And thus the third Eſtate in Parliament alwayes living, *the joynt Power ſtill continues*, and ſo there is no neceſſity the Parliament ſhould diſſolve, as Mr. *Prin* affirms, dne Circumſtances and Actions being weighed, and the Neceſſities of the Kingdom well conſidered.

Fifthly, Therefore by what hath been ſaid already, Mr. *Prins* fifth and laſt Argument muſt needs be out of doors, which is this, *That becauſe the end of Parliaments is to enact new Laws, and repeal others, &c. which cannot be done but by the Kings Aſſent: And this Parliament being to be diſſolved by an Act, and an Act being now impoſſible to be made by that King for the Diſſolution of it, he being dead; therefore his Death muſt needs diſſolve the Parliament notwithſtanding this Act.*

I anſwer in the Negative, In no wiſe. For, though he be dead, as aforeſaſd in his perſonal, (which Mr. *Pryn* ſeems to anſwer too weakly in his following objection) yet not in his Politick capacity. And therefore if the dead King cannot enact Laws by the Parliament, yet his Succeſſor can, who comes immediately to the Crown after his Fathers death. And as hath been ſhewed, 'tis no wayes inconvenient, but may many wayes be advantagious to the Publick; That ſhould the King chance any wayes untimely to be taken away, the Parliament ſhould continue after the Kings death. VVhoſe death, if it ſhould neceſſarily, as Mr. *Pryn* affirms, diſſolve the Parliament; ſo untimely a Diſſolution, as the caſe might ſtand, might prove very dangerous and pernicious to the Kingdom.

Beſides,

Beſides, The Act doth not limit the *Parliaments* diſſolution as lawfull only, if it be done by an Act of that King then living, when the Act was made: But in the general it limits it to an Act of *Parliament*: that it ſhall not be diſſolved but by an Act of *Parliament*. And why the Predeceſſors Authority and conſent ſhould not be as binding to his Succeſſor in this caſe, till ſo diſſolved, as in caſe of any other Law made with his conſent, I would very gladly know a ſolid Reaſon for it: Being that to all intents and purpoſes, an Act for confirmation, or diſſolution, may be as virtual and efficacious, without any prejudice by the conſent and authority of the Succeſſor, as of the Father.

And further, the Act is alſo herein expreſſe, that by no other way or means, *but by an Act of Parliament it ſhall be diſſolved.* Which being it cannot be done by the dead King, but may be done by the Succeſſor, it ought ſo to be diſſolved, or elſe it muſt and doth by vertue of this Act, ſtill remain legally in full being and Authority.

Sixthly, as to what may be objected concerning the diſſolution of this *Parliament* by an Act, when the ſecluded members were lately admitted. The Argument is ſo weak, that I thought wholly to have omitted the leaſt mention of it. Yet in regard it is objected by ſome, who ſeem to recieve ſatisfaction by it, and there to acquieſce, I ſhall give this anſwer in brief to it.

Firſt, That at the beſt that was but an Act (ſo called) of the Houſe of Commons; and ſo conſequently far ſhort of the Authority of an Act of *Parliament*, or any legal pretence of it: which only conſiſts of King, Lords, and Commons. And therefore by any ſuch appellative Act, this *Parliament* can no wayes be diſſolvable.

And further, The utmoſt authority that the Houſe of Commons hath given them by the foreſaid Act (for the continuation of this *Parliament* till they diſſolve themſelves by an Act) is but to adjourn themſelves by an Order of their own Houſe, as is expreſſe in the ſaid Act. By which 'tis evident, they have no power to diſſolve themſelves; much leſſe, by any Act they can do to diſſolve the *Parliament*.

And here it is worth the obſerving, (before I paſſe over this Act

Act of the Houſe of Commons, whereby it was endeavoured to diſſolve the *Parliament*) That in their Judgments and Conſciences there was need of an Act to diſſolve the *Parliament*: And therefore by this Act of theirs they did implicitely grant, that before the paſſing of the ſaid Act the *Parliament* was not then diſſolved: (and ſo conſequently did acknowledge it not to be diſſolved by the Kings Death, which happened many years before:) and if not diſſolved by the Kings Death, then much leſſe by the ſaid Act of the Houſe of Commons, (which carries not the leaſt ſhadow of Legal Authority with it, as aforeſaid, for the diſſolution of it) and therefore by the Judgment of the ſaid Houſe, righ.ly underſtood, 'tis ſtill legally in force and being.

But becauſe ſome do Object, that in regard the Lords ſpiritual (to wit) the Biſhops, were outed the Houſe of Peers, before the paſſing this Act for continuation of the *Parliament*, whereby their Votes and Conſents were never had in the Caſe, that therefore it was an illegal Act, and ſo fell void in it ſelf.

I anſwer briefly, That the *Abbots* and *Priors* (29. in number, who were formerly Lords of Parliament, and held *per Baroniam* from the King, and had their Seats and Votes in the Houſe of Peers as well as the Temporal Lords) were diſſolved in the Reign of King *Henry* he 8th. And yet all Parliaments ſince with all their Acts have been held for Legall and Authentick, without the leaſt queſtion or contradiction of their Authority, and therefore is as little to be ſcrupled here in our preſent Caſe, which is the ſame; The Biſhops Priviledge and Right to ſit in Parliament being alſo null, and made void, as well as theirs by Act of Parliament. Whereunto much more might here be ſaid to this purpoſe, but that I would not be too tedious.

See Sir *Edw. Cook*, in his third part of Inſtit. of the High Court of Parliament, how the Lords give their Voice, P. 35.

Seventhly, I have but one word more, which anſwers moſt fully and unqueſtionable all Mr. *Pryns* Objections at once, or what elſe may be ſaid for the diſſolution of this Parliament by the Kings Death; and that is taken from the Supream Legiſlative Authority under God, that the three Eſtates, *viz.* King, Lords, and Commons, legally called, have over all perſons and Cauſes in the whole Nation: By vertue whereof they have

See Sir *Edw. Cook* the third part of his Inſtitutes of the Hight Court of Parl. of the Power and Juriſdict. of the Parl. fol. 36. who ſaith, That the Power and Iuriſdiction of the Parl. for making of Laws, in proceeding by Bill, is ſo tranſcendent and abſolute, as it cannot be confined either for cauſes or perſons within any bounds, &c.

power to do the higheſt actions the Nation is capable of, though it be even to the diſmembring of the Parliament it ſelf, and diſſolving a conſiderable part of it, or altering any other Fundamental Conſtitutions they pleaſe, ſo they ſee it neceſſary for the publick good (as particularly in the Caſe of the Biſhops, call'd the ſpiritual Lords, and by ſome affirmed to be the third Eſtate in Parliament, who nevertheleſs have been excluded by an Act of the King, Lords, and Commons, from their antient right of Sitting and Voting in Parliament, when in their wiſdom their Seſſion there appeared hurtful to Church and State,) For who may queſtion or controul the Actions of a lawful Parliament, while none in the Kingdom can ſo much as pretend to be above them. And if their Authority be of ſo large an extent, even in matters of greateſt weight and moment: then much more in things of far inferiour, and much leſs concernment, as is the confirmation of a Parliament to continue after the Kings death who call'd it; if the three Eſtates ſhall ſee good to paſs an Act, as now they have done to that purpoſe, (implicitely, though not in expreſs terms) the King hapning to dye before it hath been diſſolved by an Act of Parliament, as by the three Eſtates hath been firmly enacted, it ſhould be ſo diſſolved, and no otherwiſe.

By this time it may be hoped the legal being and Authority of the Long *P*arliament is ſufficiently evident; The truth whereof being ſo clearly proved both by Law and Reaſon, how much doth it unfold to us the ſad and dangerous eſtate of the Kingdom, whilſt under the Conſtitution of ſuch powers as neither in Eſtate, Liberty, or Life, (though otherwiſe of good Inclination to the publick) can give the Nation any legal ſecurity.

For though many excellent things have been done by the ſingular wiſdom of this preſent *P*arliament, now ſitting, that are of ſpecial tendency in themſelves, for the good and ſafety of the Nation, through his Majeſties moſt gratious condeſcention, for which we have infinite cauſe to bleſs God; Yet herein the great unhappineſs, That whilſt their Authority is not legally founded, the Nation can promiſe themſelves no aſſurance for the laſting enjoyments of thoſe benefits and ſecurities they

Vide Poſtſcript.

have

have given it, being, 'tis to be feared, and too juſtly, they fall void of themſelves by vertue of the ſaid Parliaments illegal Policy and Conſtitution.

Therefore how much were it to be wiſhed, that the Supream Legiſlative Authority of the Nation might again revert into that Channel by which the Peace and Settlement of the Nation, through his Majeſties moſt gracious Influence, might durably, and without queſtion, be provided for and preſerved.

In reference to which I ſhall humbly take the boldneſs to offer it as a weighty and ſerious Conſideration to this preſent Parliament now ſitting, whether they ſhould not do well (for their own ſafety as well as the Nations) to adviſe his Majeſty in this particular; (They only having the priviledge and opportunity now effectually to do it) their caſe in point of ſafety or danger being the ſame with the reſt of the peoples, when once they ſhall come to be diſſolved.

But now here, becauſe the fears and ſcruples which at firſt apprehenſion are apt to ariſe in the hearts of the Generality of the Kingdom, may ſeem a great Obſtruction in Prudence againſt the Return of that *Parliament* to ſit again, in reference to the danger of perpetuating of it, Who therefore may be ready to ſay, By ſo doing we may enſlave King and Kingdom to ſuch a yoak of Bondage as we may never be able to break off our own necks, or the necks of our poſterity any more.

I ſhall give hereunto this cloſing Anſwer, That the ſcruple is very rational; and though ſuch a thing there is a poſſibility they might do or attempt, (though very improbably effect) if they ſhould ſo wickedly abuſe their Truſt; yet thoſe fears will ſoon be removed from wiſe and diſcreet perſons, if we do but ſeriouſly conſider, That the far greater number of the Members ſurviving are of the *Secluded Party*, who were thruſt and forced out of the Houſe for their Loyalty to the King: Or, of thoſe that withdrew themſelves upon the offence given by occaſion of the Armies Violence againſt King and Parliament; and have been the chief Inſtruments of his preſent Majeſties happy Reſtoration. And therefore, being perſons ſo qualified, we may eaſily believe they will not be very willing to draw ſuch an *Odium* upon their unſtained Credits, as will inevitably follow,

(beſides the further miſchiefs will be apt to enſue to themſelves, and the Nation by renewed diſcontents) ſhould they go about to ingroſs the Authority of the Nation any longer in their own hands, than will be neceſſary for publick ſafety with his preſent Majeſties Approbation? Who for further ſecurity againſt thoſe fears may eaſily ſummon them together by his Proclamation to *Whitehall*, or where elſe he pleaſeth, before their Seſſion again in Parliament, and there receive their perſonal promiſe, and engagement, to confirm the Acts of this preſent Parliament, and to prepare a Bill the firſt thing they do at a certain time to be agreed on betwixt his Majeſty and them, to diſſolve themſelves, and for his Majeſties iſſuing out Writs for the ſummoning of a new Parliament, that ſo things may ſweetly return again without violence or injury done either to his Majeſties Prerogative, or his Peoples Liberties into a regular and legal way of proceeding to the general ſecurity and ſatisfaction of the whole.

POST-SCRIPT.

BEcauſe there are great and general diſſatisfactions concerning this preſent Parliament, ſo called, now ſitting, in queſtion of its legal Right and Authority, (being the Author's deſign is nothing elſe but the Peace and Security of his Native Country) and a thorow healing of our VVounds and Breaches) He humbly deſires further to offer theſe few following Particulars to the grave and ſerious Conſideration of thoſe that are more learned in the Laws, in hopes that ſome eminent perſon of that Profeſſion will give a ſolid and judicious Reſolution to them.

Firſt, Sir *Edward Cook* in the third Part of his Inſtitutes, writing of the High Court of Parliament, and of what perſons that Court conſiſts, ſpeaking of the Temporal Lords, as Dukes, Marqueſſes, Earls, Viſcounts, and Barons, who ſit there by reaſon of their dignities which they hold by deſcent or Creation, ſaith, that every one of theſe being of full Age ought to have a Writ of Summons *ex debito Juſtitiæ*.

Where

VVhere note, Two things are required to the legality of their Seſſion in Parliament.

Firſt, That they be of full Age. And if that be a qualification legally required of *Peers*, (for it will eaſily be granted to be moſt abſurd and unjuſt, that they that have not power by Law (as all Infants under age have not) to diſpoſe of any part of their own Eſtates, or to make one legal act to that purpoſe) that ſuch ſhould have a ſhare in the Supream power, to judge, vote and diſpoſe of the Eſtate and Authority of the whole Kingdom.) I ſay then by rule of proportion, that it is a qualification as neceſſarily required of the Commons upon the ſaid Conſideration. And it were happy for this Nation therefore, that it were better looked after for the future, that ſo thoſe miſchiefs may be prevented which too often enſue to the Publick, by bringing ſuch green heads into ſo wiſe and grave a Council.

Secondly, 'Tis required to their legal Seſſion in *Parliament*, that the ſaid Lords have VVrits of Summons; which theſe now ſitting in this preſent *Parliament* never had.

Next, The ſaid Sir *Edward Cook* in the forecited place, ſaith, That the *Commons*, which he calls there the Third Eſtate of the Realm, conſiſting of Knights of Shires for Counties, Citizens of Cities, and Burgeſſes of Burroughs; they all are reſpectively to be elected by the Shires or Counties, Cities and Burroughs, by force of the Kings VVrit *ex debito Juſtitiæ*. But the Commons of this preſent *Parliament* were not ſo choſen; but by force of a VVrit in the Name of the *Keepers of the Liberties of England*.

Thirdly, He ſaith, That at the Return of the VVrits, the Parliament cannot begin but by the Royal preſence of the King, either in perſon, or by repreſentation. By repreſentation two wayes: Either by a Guardian of *England* by Letters Patents under the Great Seal, when the King is in remote parts out of the Realm. Or by Commiſſion under the Great Seal of *England* to certain Lords of Parliament, repreſenting the Perſon of the King, he being within the Realm in reſpect of ſome infirmity: (See Sir *Edward Cook* in his third Part of Inſtitutes of the High Court of Parliament, concerning the beginnings of Parliaments, Page 6.) But this Parliament began without the Royal

Royal preſence of the King either in Perſon or by Repreſentation.

Fourthly, That the ſubſtance of the Writs of Summons muſt continue in their original Eſſence without any alteration or addition, unleſs it be by Act of Parliament. (See the ſame Sir *Edward Cook* in his third part of Inſtitutes of the High Court of *Parliament*, concerning Writs of Summons of Parliament, pag. 10.) But how great an alteration and addition to the ſubſtance of the Writs of Summons, is this, To iſſue them forth in the name of the *Keepers of the Liberties of England*, without the *leaſt Authority of Parliament*, which by the expreſs Statute ought only to be iſſued forth in the Name of the King.

And therefore, if there be any weight in Mr. *Pryns* foreſaid Argument, to Null a Parliament, becauſe of the Kings Death who called it; in regard the Writs of Summons were iſſued forth in the Name of that King deceaſed, with whom by name the Members of Parliament were called to conſult and adviſe, but now cannot: It will, I conceive, be no hard queſtion to reſolve, (and it were good Mr. *Pryn* would undertake it without partiality or affection) Whether the Parliament doth not *ipſo facto*, fall void, and all the Acts of it, further than they ſhall be confirmed by a lawfull Parliament, which is not called by any Writs of the Kings at all, but only by Writs, as aforeſaid, in the Name of the *Keepers of the Liberties of England*, (and by thoſe Writs, none but the Commons) with whom they are ſummoned to conſult too about the buſineſſes of a Commonwealth, (which theſe times have ſufficiently taught us the meaning of) and not with the King about the arduous buſineſſes of His Kingdom.

Theſe premiſed Illegalities conſidered, in reference to this preſent Parliament (the legal being and capacity, as premiſed, of the *Long Parliament*, being ſuppoſed to be here totally waved) VVhether is this a lawfull Parliament, and capable to make legal and binding Acts? Or having been declared a lawfull Parliament, by an Act by themſelves made ſince their Seſſion, with the Kings Conſent; VVhether can the Kings Conſent make them ſuch, though otherwiſe unlawfull in their Call, Principle, and Foundation?

For

For I would put the case the King should have come in while *Oliver*, or *Richard's Parliaments* had been sitting, (to which the Lords, as now, should have presented themselves without writs of Summons) and his Majesty, under that constitution, should have consented to a Bill to grant them a lawfull *Parliament*: Would that at all have made them so, under such a Constitution? Can that which is unlawfull in it self, and contrary to the Fundamental Constitutions of the Nation, be made lawfull barely by the Kings Consent.

Which if it shall be pleaded in the Affirmative (though I very much question whether any understanding Lawyer will venture his reputation on it) I shall desire then to be instructed in a better Argument to make good the lawfull being and Authority of the *long Parliament*. For surely, if a *Parliament* be lawfull meerly because of the Kings consent, passing an Act to that purpose, though otherwise utterly unlawfull in its Call and Foundation: Then doubtlesse that *Parliament* is much more lawfull, and in its Legall being that was founded upon a lawfull Call, and had the Kings consent to an Act to authorize it to continue, till they dissolve themselves by an Act: and if that be still a Lawfull *Parliament*, then I am sure upon that account this can be none, nor no other, till that be Legally dissolved.

To which there is this further to be added concerning the intentions generally of the whole Nation in reference to this *Parliament* by the best Information I can gather: That it was never in the least meant that these should sit to pass Acts as a lawfull *Parliament*, (which was only like to prove a snare to the people as other *Parliaments* of the Like nature, so call'd, have done through the disputeablenesse and unwarrantablenesse of their Authority. (But only, that for the present necessity they might bear the face of Parliamentary Authority for preserving the peace of the Nation, till his Royal Majesty, that now is, might be happily restored, (the Kingdom panting after him as their only means of settlement) and so soon as that was effected then to dissolve, in order to the sending forth his Majesties Royal Writ of Summons for calling a *Parliament* according to the Ancient Custome and Fundamental Constitution, (the *old Parliament* being first legally dissolved)

CONCLUSION.

IF the power of the Sword, or other arbitrary proceedings do not interpose to interrupt free debates, and the course of Law and Justice; which the Author hopes there is nowing cause to fear as formerly (all Estates and Degrees in the Nation having sufficiently seen the inconvenience, and felt the smart of such unrighteous actings) he doubts not (upon a serious consideration of the foregoing Arguments, if men will lay aside passion and self Interest) but that right foundations will shortly again be restored, that knowing our ground-work to be sure and unquestionable; the Subjects of all sorts in the Kingdom may with all safety and cheerfulness submit to, and act under the lawful Powers in being, every one sitting in peace under his own Vine and Fig-tree, blessing the God of his Salvation: Which is daily the Authors earnest and most happy prayer.

FINIS.